IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13409 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MOTIBHAI HIRABHAI SAMAND & 2 - Petitioner(s)
Versus
STATE OF GUAJRAT THR'AVINASH KUMAR,IAS OR HIS & 4 - Respondent(s)

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Appearance :

MR BM MANGUKIYA for Petitioner(s) : 1 - 3.
MR SIRAJ GORI, AGP for Respondent(s)

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 11/07/2006

ORAL JUDGMENT

1. Rule. Learned AGP Shri Gori waives service of notice of rule on behalf of the respondents. At the joint request of the learned advocates

appearing for the parties, the petition is taken up for final disposal today.

2. Though the petitioner has prayed for several reliefs in the petition, learned advocate for the petitioners confines his challenge in this petition to the order dated 6th June 2005 passed by the Deputy Secretary (Appeals), Agriculture and Cooperative Department, Government of Gujarat. By the said order, revision application filed by the petitioners came to be rejected.

3. The short ground on which the said order is assailed is that the order records that there has been no participation either by the petitioner or his legal representative. Learned advocate Shri Mungukiya for the petitioners has stated that the order was passed by Deputy Secretary (Appeals), Shri V.M.Sonvane who had taken the charge of the said post only after April 2005. Prior to the same, erstwhile holder of the charge Shri Raval had been hearing the revision application in which the petitioners through his learned advocate had been

participating.

4. Though learned AGP Shri Gori submitted that the above averments are not quite accurate and the respondents do not admit the same, I find that since it is not very clear whether the petitioners had any notice of hearing after the charge was taken over by Shri Sonvane, in fitness of things, the revision application should be heard afresh and disposed of after giving an opportunity of hearing to the petitioners. Learned AGP Shri Gori submitted that the petitioners are adopting dilatory tactics. This can be safeguarded against by giving a time bound programme.

5. In the result, the impugned order dated 6th June 2005 is quashed. The proceedings are remanded to the authorities for fresh consideration after permitting the petitioners to make submissions personally or through their representative. For the above purpose, the petitioners shall personally or through representative remain present before respondent No.2 on 1st August 2006 and will not insist on a fresh notice. If on

that day, it is not convenient to the said authority to take up the revision application for hearing, it will be open for him to fix another date. It is expected that the petitioners shall cooperate with the proceedings and make submissions on the appointed date. With these directions, the petition is disposed of. Rule is made absolute to the above limited extent with no order as to costs.

(Akil Kureshi, J.)

(vjn)